IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE**

**and**
**THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY**

**WRIT APPEAL No. 253 of 2005**

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 9.12.2004 in WP No. 22755 OF 2004 on the file of the High Court.)

Between:

Edaiah, S/o. Paddaiah,
R/o. Tirumalagiri, Nalgonda District.

**..... APPELLANT**

AND

1. The Divisional forest Officer, Nalgonda, Nalgonda District.
2. R. Ram Prasad, S/o. Late Sri Venkata Subba Rao,
R/o. 6-2-2/73, Road No.5, Venkat Ramana Colony, Nagole, Hyderabad.

**.....RESPONDENTS**

**Counsel for the Appellant: Mr. C.RAGHU**

**Counsel for the Respondent No.1: GP FOR FORESTS**

**Counsel for Respondent No.2: Mr.K.K.Mahender Reddy**

**The Court made the following :**

**ORAL JUDGMENT:**

(per Honourable Sri Devinder Gupta, the Chief Justice)

Learned Single Judge dismissed the appellant's Writ Petition No. 22755 of 2004 on 9.12.2004, against which, the present Appeal has been filed. The appellant claims to be the owner of Tractor bearing No. AAR 121 alleged to be involved in a forest offence, and, in the Writ Petition, sought direction against the first respondent to pass appropriate orders on his representation dated: 6.11.2004 as envisaged under Section 44(2-C) of the Andhra Pradesh Forest Act. Writ Petition was dismissed by the learned Single Judge taking note of the fact that on seizure of the vehicle in a forest offence alleged to have been committed by the 2nd respondent, Writ Petition No. 10344 of 2004 was filed, and, in it, WPMP No.13124 of 2004 was also filed, in which, interim order was passed on 8.7.2004 directing the release of vehicle, which was set aside in Writ Appeal No. 1310 of 2004, and, ultimately, Writ Petition was also dismissed. In view of that, learned Single Judge proceeded to dismiss the appellant's writ petition as well.

Needless to add that appellant is claiming to be the owner of the vehicle in question and on seizure of the vehicle, necessary procedure as laid down in Section 44 of the A.P. Forest Act has to be followed and the ultimate order after seizure would be the confiscation. Before that, owner of the vehicle is entitled to prove to the satisfaction of the Authorised Officer that the vehicle was used in carrying property without his knowledge or connivance, or knowledge or connivance of the agent, if any, or, a person-in-charge of the vehicle, in commission of the offence and that each of them had taken all reasonable and necessary precautions against such illegal use. In order to prove that, a representation is stated to have been filed by the appellant, and the only direction sought in the Writ Petition was to direct Respondent No.1 to pass appropriate orders on such representation by affording an opportunity to the appellant to prove the ingredients of Section 44(2-C) of the Forest Act.

Since it is not the case of the respondent that decision has so far been taken, we allow the Appeal, set aside the impugned order and allow the Writ Petition with direction to respondent No.1 to take up the enquiry in hand and allow opportunity to the appellant to prove the ingredients of Section 44(2-C) of the A.P.Forest Act, and, thereafter, pass appropriate orders in accordance with law as regards the vehicle in question. In case, the petitioner-appellant still feels aggrieved by the orders to be passed by the respondent, needless to add that he will have to avail his remedies in accordance with the provisions of Section 44(2-E) of the A.P. Forest Act. The Respondent No.1 is directed to take appropriate decision in the matter within three months from the date of the receipt of a copy of writ order from this Court. No costs.

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DEVINDER GUPTA, C.J.

16.3.2005.

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B.SESHASAYANA REDDY, J.

VR.

**To**

1. The Divisional forest Officer, Nalgonda, Nalgonda District.

**2. Two CCs to Government Pleader for Forest, High Court Buildings, Hyderabad (OUT).**

3.2 CD copies

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